

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Susan Lyons, Individually and :
as Administrator of the :
Estate of Steven Lyons, :
deceased, :
Plaintiff, :
v. Case No. 2:05-cv-0655 :
Advantage Contractors, L.L.C., MAGISTRATE JUDGE KEMP :
Defendant.

ORDER

This matter is before the Court on plaintiff Susan Lyons' motion to deem plaintiff's request for admissions admitted as true pursuant to Fed.R.Civ.P. 36(a). According to the motion and accompanying memorandum, defendant Advantage Contractors first received a Set of Interrogatories, Request for Admissions and Requests for Production of Things for Inspection when Ms. Lyons filed suit in state court. Advantage Contractors never responded. Once the case was removed to this Court and a preliminary pretrial order was issued, Ms. Lyons resubmitted the same documents to Advantage Contractors on November 25, 2005. Ms. Lyons asserts that Advantage Contractors never responded. Accordingly, Ms. Lyons filed this motion. Advantage Contractors has not responded to the motion.

Fed.R.Civ.P. 36(a) states, in relevant part, that

[e]ach matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as the parties may agree to in writing, subject to Rule 29, the party to whom the

request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or the party's attorney.

According to Ms. Lyons' motion and accompanying memorandum, which is not disputed by Advantage Contractors, Advantage Contractors failed to respond to Ms. Lyons' request for admissions in the allowed time. Because thirty days have passed after the service of the request on November 25, 2005, under the plain language of Fed.R.Civ.P. 36(a), the request for admissions is admitted as true. Thus, Ms. Lyons' motion of plaintiff to deem plaintiff's request for admissions to defendant admitted for failure to respond (doc. #9) is granted.

/s/ Terence P. Kemp
United States Magistrate Judge